

Asia Counsel Insights provide an overview of the key trending legal and business issues in Vietnam and how they may impact your business. Please enjoy your read.

### Key Dates

- September 5-7: French President to visit Vietnam.
- October 5: The Eurasian Economic Union and Vietnam Free Trade Agreement comes into effect.

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### Business

#### Business lines with public security and order conditions

Decree 96/2016/ND-CP dated 1 July 2016 of the Government provides for a list of 23 business lines that require a certificate of satisfaction of conditions on security and order. The list includes, inter alia, massage services, security guard services, electronic prized gaming for foreigners, debt recovery services, casino business, gas trading, industrial explosive trading, printing services, cosmetics surgery services, karaoke and dance club business and accommodation services.

The certificate of satisfaction of security and order conditions will be issued by the police at central, provincial or district level, depending on the sector of business. The certificate will have an unlimited validity term, except for business establishments that have an operational term of less than 10 years and that uses explosives for mineral exploitation and mining.

### Tax

#### Import and export duty exemption

Law No. 107/2016/QH13 replacing the former Law on export and import duties of 2005 came into effect on 1 September 2016. Under the new Law, new types of goods are entitled to tax exemption. These include:

- Goods of which the value or tax payable is below the minimum amount as provided by law.
- Products used for non-commercial purposes including samples; pictures, films and models replacing samples and advertisement publications in small quantities.
- Machines, equipment, materials, components and semi-products imported for manufacture of exported products, including those materials and equipment which have been imported before 1 Sep 2016 but the products produced thereby have not been exported.

### Banking

#### Currency brokerage by banks

The State Bank of Vietnam issued Circular 17/2016/TT-NHNN ("Circular 17") on currency brokerage by commercial banks and foreign bank branches to replace Decision 351/2004/QĐ-NHNN. New provisions under Circular 17 are:

- Brokerage fees are agreed between the broker and the customer and there is no longer a ceiling of 0.2% of the transaction value as previously stipulated under Decision 351.
- At least one party to the brokered transaction must be a credit institution or a foreign bank branch.
- Commercial banks and branches of foreign banks are not allowed to concurrently act as the broker and the contracting party to the brokered transaction with the customer.

Circular 17 takes effect on 22/08/16.

### About Asia Counsel

Asia Counsel is a dynamic international corporate and commercial law firm dedicated to serving clients in Vietnam. Our partners have over nine years of experience in working on complex and challenging matters in Vietnam. We are committed to helping clients achieve their business strategies and providing outstanding legal services.

If you have any questions on any of the items discussed above, please do not hesitate to contact us.

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## Business

### New Decree on Cybersecurity

On 11 July 2016, the Government issued Decree 108/2016/ND-CP (“**Decree**”) detailing conditions for provision of cybersecurity products and services. Highlights of the Decree are below.

- Providers of cybersecurity products and services must obtain a cybersecurity business license from the Ministry of Information and Communication (“**MIC**”). The license will be valid for 10 years.
- The license will be granted to applicants satisfying all conditions on facilities, managerial and technical human resources and business plans under the Law on Cybersecurity 2015.
- Companies holding cybersecurity business licenses are obligated to report to the MIC annually on their business status and when material events occur.
- Companies currently engaging in cybersecurity business can continue to perform those contracts entered into before 1 July 2016 but must obtain the license by 31 December 2016.

## Property

### Transfer of residential house sale & purchase contracts

Under Circular 19/2016/TT-BXD dated 30 June 2016 of the Ministry of Construction, contracts for sale and purchase of commercial residential houses can be transferred if the application for issuance of the land use right and house ownership certificate (“**Certificate**”) has not been filed with the competent authorities. The transfer process comprises the following steps:

- Signing of the transfer agreement by the transferor and transferee, which must be notarized if the transferor is not a real estate company.
- Payment of relevant taxes and fees by the parties.
- Confirmation of the transfer documents by the developer.
- Application for the Certificate by the (last) transferee.

A sample of the transfer agreement is enclosed in the Circular for reference by the parties. The Circular took effect from 15 August 2016.

## Investment

### Consolidation of investment and enterprise registration procedures

In mid August, the Ministry of Planning and Investment published a draft Circular introducing a one-stop licensing procedure for foreign investors and foreign-invested companies (“**Investors**”) conducting both investment and enterprise registration procedures. The draft Circular consolidates the following procedures:

- project registration and company establishment;
- registration of an M&A transaction and change of enterprise registration; and
- change of project contents associated with change of enterprise registration information.

The Investors may decide whether to follow a separate procedure, a sequential procedure or a one-stop procedure. In case of the latter, the investors must submit all application documents to the investment registration authority (IRA) and the IRA shall liaise with the enterprise registration authority in processing the application.

## Vietnam Fact Box

From July 2015 to July 2016 there were 1,709 companies invested by foreign investors by way of capital contribution or acquisition of shares (for a majority interest of 50% or more), with the total contributed capital amounting to USD 1,894 million. Business sectors receiving the most capital were:

Business sector	Foreign capital (mil USD)	%
Real estate	350,1	23.1
Retail	318,9	21.0
Wholesale	77,3	5.1

Source: <http://fia.mpi.gov.vn/>

## Sport

### New Decree on sport business

Decree 106/2016/ND-CP dated 1 July 2016 of the Government stipulates conditions for sport business. Sport companies must have the following conditions to obtain the certificate of satisfaction of conditions for operating sport business:

- Proper equipment and facilities as regulated by the Ministry of Culture, Sports and Tourism;
- Sufficient financial capacity for sport operations; and
- Professional staff with appropriate qualifications.

Extreme sport activities are subject to additional conditions on trainers and umpires. The People’s Committee (PC) or Department of Culture, Sports and Tourism, if authorized by the PC, shall issue the certificate.

Decree 106 repealed Article 13 of Decree 112/2007/ND-CP and took effect as of 1 July 2016.

